REMARKS/ARGUMENTS

Claims 1 through 11 remain pending in this application. Claims 5, 6, and 11 are withdrawn.

Applicant notes with appreciation that claims 3, 4, and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Action objects to claim 1 as informal because in line 2, "a" should be inserted preceding "housing". Claim 1 is amended to insert "a" preceding "housing" in line 2. Reconsideration and withdrawal of the objection are respectfully requested.

Claim 8 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite because the expression "maximum anticipated time" is vague and indefinite because it could be any length of time. Applicant respectfully disagrees. In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent. See, e.g., *Solomon v. Kimberly-Clark Corp.*, 216 F.3d 1372, 1379, 55 USPQ2d 1279, 1283 (Fed. Cir. 2000). Applicant respectfully submits claim 8 defines "maximum anticipated time" so that one of ordinary skill in the art of its scope is apprised of the scope of claim 8. Reconsideration and withdrawal of the rejection to claim 8 are respectfully requested. In addition, claim 8 is amended to replace "the" with "a" preceding "maximum" for clarification.

Claims 1 and 2 stand rejected under 35 U.S.C. §102(e) as being anticipated by Japanese Patent No. JP200277068 to Moriwaki et al. (hereinafter "Moriwaki").

35 U.S.C. §102(e) provides

A person shall be entitled to a patent unless-

(e) the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Moriwaki is not an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent. Moriwaki is not an international application filed under the treaty defined in section 351(a) that designated the United States. Further Moriwaki was not published under Article 21(2) of such treaty in the English language. Thus, Applicant respectfully submits Moriwaki does not anticipate claims 1 and 2 because Moriwaki is not prior art under 35 U.S.C. §102(e).

Thus, Applicant assumes the rejection of claims 1 and 2 as anticipated by Moriwaki is under 35 U.S.C. §102(a). 35 U.S.C. §102(a) provides that "[a] person shall be entitled to a patent unless -(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent." Moriwaki was published September 25, 2002. Applicant first conceived the invention provided and claimed in the application prior to September 25, 2002. A declaration under 37 C.F.R. §1.131(b) by Applicant, Kevin F. Dudley, is submitted herewith. Thus, Moriwaki was not known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent. Therefore, Applicant respectfully submits Moriwaki does not anticipate claims 1 and 2 because Moriwaki is not prior art under 35 U.S.C. §102(a). Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 1 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,339,829 to Connor (hereinafter "Connor").

Claim 1 provides an apparatus for protecting a compressor within a heating, cooling, ventilating or refrigeration system wherein the compressor includes a housing for the oil used to lubricate moving parts of the compressor. The apparatus includes a heat regenerative unit containing material that absorbs heat from the oil when the oil is lubricating moving parts of the compressor in an operational state. The material transfers the absorbed heat back to the oil when the compressor is no longer in an operational state whereby the oil is maintained at a temperature level sufficient to avoid damage to moving parts of the compressor.

Connor provides a compressor apparatus with a reverse rotation prevention apparatus having a pressure operated switch for preventing reverse rotation.

The Action asserts that Connor discloses a refrigeration compressor having a support member 23 that is submerged in the oil and that this support member is readable as a heat regenerative unit because it inherently absorbs heat from the oil during operation of the compressor, and releases the heat to the oil when the compressor is stopped. Applicants respectfully disagree. Connor merely provides that "[t]he front head 19 is carried on a rotor housing member 20, in turn, carried on a rear head 21 and a rear head cover 21a, all of which are supported on the bottom wall of the housing by means of a support member 23." (col. 2, lines 43-46). Connor does not provide any heat transfer properties of support member 23. Therefore, it is not inherent that support member 23 absorbs heat from the oil during operation of the compressor or that it releases the heat to the oil. Thus, Connor does not disclose or suggest a heat regenerative unit containing material that absorbs heat from the oil when the oil is lubricating moving parts of the compressor in an operational state with the material transferring the absorbed heat back to the oil when the compressor is no longer in an operational state, let alone that whereby oil is maintained at a temperature level sufficient to avoid damage to moving parts of the compressor, as provided by claim 1.

Moreover, even if one were to incorrectly assume the support member of Connor inherently absorbs heat from the oil during operation of the compressor, and releases the heat to the oil when the compressor is stopped, it is clearly not inherent that the release of

heat maintains the oil at a temperature level sufficient to avoid damage to moving parts of the compressor, as provided by claim 1. Thus, Connor does not disclose or suggest that the material transfers the absorbed heat back to the oil when the compressor is no longer in an operational state whereby oil is maintained at a temperature level sufficient to avoid damage to moving parts of the compressor, as provided by claim 1.

Reconsideration and withdrawal of the 35 U.S.C. §102(b) rejection to claim 1 are respectfully requested.

Claims 7 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Moriwaki in view of U.S. Patent No. 4,982,722 to Wyatt (hereinafter "Wyatt").

Claims 7 and 8 include the features of claim 1 described above.

As discussed above, Moriwaki does not anticipate claims 1 and 2 because Moriwaki is not prior art under 35 U.S.C. §102(a) or 35 U.S.C. §102(e).

Wyatt provides a heat retentive server including a server base made from non-metallic material having a relatively low thermal conductivity, such as plastic.

Wyatt fails to disclose or suggest a heat regenerative unit containing material that absorbs heat from the oil when the oil is lubricating moving parts of the compressor in an operational state, let alone that the material transferring the absorbed heat back to the oil when the compressor is no longer in an operational state whereby oil is maintained at a temperature level sufficient to avoid damage to moving parts of the compressor, as provided by claim 1 and claims 7 and 8 depending therefrom.

Thus, Wyatt fails to disclose or suggest all of the features of claim 1 and claims 7 and 8 depending from claim 1. Reconsideration and withdrawal of the rejections to claims 7 and 8 are respectfully requested.

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Moriwaki in view of U.S. Patent No. 4,817,704 to Yamashita (hereinafter "Yamashita").

Claim 9 includes the features of claim 1 described above.

As discussed above, Moriwaki does not anticipate claims 1 and 2 because Moriwaki is not prior art under 35 U.S.C. §102(a) or 35 U.S.C. §102(e).

Yamashita provides a latent heat storage apparatus for obtaining a sure latent heat from a latent heat storage material that includes a plurality of small chambers for encasing at least the latent heat storage material.

Yamashita fails to disclose or suggest a heat regenerative unit containing material that absorbs heat from the oil when the oil is lubricating moving parts of the compressor in an operational state, let alone that the material transferring the absorbed heat back to the oil when the compressor is no longer in an operational state whereby oil is maintained at a temperature level sufficient to avoid damage to moving parts of the compressor, as provided by claim 1 and claim 9 depending therefrom.

Thus, Yamashita fails to disclose or suggest all of the features of claim 1 and claim 9 depending from claim 1. Reconsideration and withdrawal of the rejection to claim 9 are respectfully requested.

Claim 10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Connor in view of U.S. Patent No. 4,181,474 to Shaw (hereinafter "Shaw").

Claim 10 includes all of the features of claim 1 described above.

Connor provides a compressor apparatus with a reverse rotation prevention apparatus having a pressure operated switch for preventing reverse rotation.

Shaw provides a vertical axis hermetic rotary helical screw compressor constituted by a closed vertical cylindrical outer enclosure and an inner cylindrical casing that vertically supports a shaft which coaxially mounts a helical screw rotor intermediate of its ends for rotation about the vertical shaft axis by upper and lower roller bearing pack assemblies.

As discussed above, Connor does not disclose or suggest a heat regenerative unit containing material that absorbs heat from the oil when the oil is lubricating moving parts of the compressor in an operational state with the material transferring the absorbed heat back to the oil when the compressor is no longer in an operational state, let alone that whereby oil is maintained at a temperature level sufficient to avoid damage to moving parts of the compressor, as provided by claim 1.

Shaw also fails to disclose or suggest a heat regenerative unit containing material that absorbs heat from the oil when the oil is lubricating moving parts of the compressor in an operational state with the material transferring the absorbed heat back to the oil when the compressor is no longer in an operational state whereby oil is maintained at a temperature level sufficient to avoid damage to moving parts of the compressor, as provided by claim 1.

Thus, Connor and Shaw, alone or in combination, fail to disclose or suggest all of the features of claim 1 and claim 10 depending from claim 1. Reconsideration and withdrawal of the rejection to claim 10 are respectfully requested.

In view of the above, reconsideration and withdrawal of the rejections of claims 1, 2, and 7 through 10 and passage of this application to allowance are respectfully requested.

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